CURRENT DECISIONS

ADVERSE POSSESSION—TITLE BY INNOCENT MISTAKEN OCCUPATION.—The defendant for more than twenty years occupied to a wall which she had mistakenly built beyond the true boundary between her land and the plaintiff's. Within the statutory period the defendant explicitly disclaimed intention of wanting any land that did not belong to her. *Held,* that the defendant had gained title by open, continuous, exclusive, and adverse occupation. *Van Allen v. Sweet* (1921, Mass.) 132 N. E. 348.

The case is an excellent example of the better rule. See COMMENTS (1921) 31 YALE LAW JOURNAL, 195.

ATTORNEY AND CLIENT—IGNORANCE OF COUNSEL AS GROUND FOR NEW TRIAL.—The defendant was tried for a serious crime. His attorney displayed gross ignorance of certain rules of evidence, with the result that the accused was gravely prejudiced. *Held,* that there should be a new trial. *People v. Schulman* (1921, Ill.) 132 N. E. 530.

In civil cases, ignorance of counsel is not reversible error. *Quinn v. Wetherbee* (1871) 41 Calif. 247. Nor will the appellate court in any case grant relief for the mere negligent omission of an attorney who is presumably competent. *Bowman v. Field* (1881) 9 Mo. App. 576. In criminal cases, however, a new trial will be allowed where it appears that the defendant has been prejudiced as a result of extraordinary ignorance on the part of his counsel. *State v. Jones* (1882) 12 Mo. App. 93; see Milburn, *Curious Cases* (1902) 94.

CONSTITUTIONAL LAW—POLICE POWER—VALIDITY OF ORDINANCE VESTING IN MAYOR DISCRETIONARY POWER TO GRANT PERMITS TO HOLD MEETINGS IN PUBLIC STREETS.—The City of Mount Vernon, acting within its charter, passed an Ordinance prohibiting public meetings in the City's streets without a permit from the Mayor. The relators, all Socialists, having been arrested for an admitted violation of the Ordinance, sought their release in *habeas corpus* proceedings, alleging the Ordinance to be unconstitutional. *Held,* that the Ordinance was constitutional even though there might have been unfair discrimination in the instant case. (Pound, J., *dissenting*). *People v. Doyle* (1921) 232 N. Y. 96.

A contrary result was reached in a recent Connecticut case. *State v. Coleman* (1921, Conn.) 133 Atl. 385. It was adversely criticized in COMMENTS (1921) 31 YALE LAW JOURNAL, 183, 187. And the New York Court of Appeals expressly refused to follow it. In the instant case, the dissenting judge, while admitting that the Ordinance was originally valid, maintained that its discriminatory administration made it no longer so. *Yick Wo v. Hopkins* (1886) 118 U. S. 356, 6 Sup. Ct. 1064. That decision, if applied to its full extent, would have necessitated holding the Mount Vernon Ordinance invalid from its inception, which none of the learned judges were willing to do. And rightly so, for, as pointed out in the comment on the *Coleman* Case referred to above, what is proper regulation of the use of public property may not be at all proper in the regulation of the use of private property. A court should hesitate to declare an ordinance, valid on its face, invalid because of an unfortunate discrimination in its administration. In the *Yick Wo* Case, as in the instant case, the offenders might have been released without reference to the validity of the ordinance. But in that case, the maladministration was so glaringly flagrant that the Supreme Court was led to declare the ordinance there involved unconstitutional. In the present case, however, the normal appeal from the Mayor's decision would have been fully adequate.

KANSAS INDUSTRIAL COURT—CONSTITUTIONALITY OF REGULATIONS FOR CONDUCT OF PACKING BUSINESS.—In the settlement of a trade dispute between a small

meat-packing concern and its employees, the Kansas Industrial Court formulated certain regulations for the conduct of the plant, fixing wages and working hours. Upon a refusal by the concern to obey these regulations, the Court instituted mandamus proceedings to compel it to do so. One ground of defence was that the orders could not be enforced without depriving the company of its property without due process of law. *Held,* that the regulations were constitutional. *Court of Industrial Relations v. Wolff Packing Co.* (1921, Kan.) 201 Pac. 418.

The regulations imposed upon this concern by the Industrial Court are discussed in (1921) 31 YALE LAW JOURNAL, 206. In the present proceedings, the Court avoided the charge of unconstitutionality by holding that the company could not be compelled to operate at a loss, and that there was, therefore, no taking of property without due process. This novel institution has thus successfully escaped one more attempt to destroy it. See COMMENTS (1921) 31 YALE LAW JOURNAL, 75.

RECEIVERS—PRIORITY OF RECEIVERS' CERTIFICATES OVER PRIOR LIENS.—The plaintiff filed a bill, as creditor, for the appointment of receivers to carry on a business in their discretion, against the defendant, a private corporation, organized to carry out a contract with the City of New York for the disposal of its garbage. The receiver appointed borrowed money and issued receivers' certificates which, by the order of the court, were to take priority over all other liens of the defendant. The trustee of the first mortgage appeared and objected; its objection being overruled, it did not appeal. The receiver failed to make a profit and discontinued the business. The prior lienholders foreclosed their mortgage. *Held,* that the lien of the trustee under the first mortgage upon the foreclosure fund was paramount. *American Engineering Co. v. Metropolitan By-Products Co.* (1921, C. C. A. 2d) 275 Fed. 34.

A court may give priority over prior liens to receivers' certificates when their issue was necessary for the preservation of the property. *McDermitt v. Pentress Gas Co.* (1918) 82 W. Va. 230, 95 S. E. 841. Receivers' certificates issued to obtain money to pay taxes are made first liens. *In Re J. B. & J. M. Cornell Co.* (1912, S. D. N. Y.) 201 Fed. 381. And when the continuance of the business of a public or quasi-public corporation is indispensable to the public welfare, existing liens may be subordinated to receivers' certificates. See *Internatonal Trust Co. v. Decker Bros.* (1907, C. C. A. 9th) 152 Fed. 78; 28 Ann. Cas. 40, note. But in the case of a private corporation which is operated under a receiver for profit, prior lienholders who do not consent cannot be deprived of their liens in favor of those who have advanced money on receivers' certificates. *In Re J. B. & J. M. Cornell Co., supra;* Clark, *Receivers* (1918) sec. 851; High, *Receivers* (1876) sec. 138 The instant case seems to fall within this rule.

WORKMEN'S COMPENSATION—DEPENDENT—RELIANCE ON VOLUNTARY CONTRIBUTIONS.—The deceased had voluntarily contributed six dollars a week on the average to the support of his sister, who relied on these contributions for her support. The sister brought an action under the Workmen's Compensation Act to recover for the death of her brother. *Held,* that she was a dependent within the meaning of the Act and could recover. *Driscoll v. Jewell Belting Co.* (1921, Conn.) 114 Atl. 109.

Compensation statutes ordinarily do not undertake to define the term "dependency," and hence definitions given and applications made have not always been uniform. But it is generally held that if there is a dependency in fact upon certain contributions even though they were given voluntarily and not because of a legal duty to do so, the one relying on these contributions is a dependent within the meaning of the Compensation Act. *Jackson v. Erie Ry.* (1914, Sup. Ct.) 86 N. J. L. 550, 91 Atl. 1035; *Waltz v. Holbrook, Cabot & Rollins Corp.* (1915) 170 App. Div. 6, 158 N. Y. Supp. 883; *Jackson v. Industrial Commission* (1916) 164 Wis. 94, 159 N. W. 561.